

Department of Energy
Germantown, MD 20874-1290

DEC 22 1995

Dr. Dennis K. Fisher
Associate Director
for Plant Operations
Lawrence Livermore
National Laboratory
Mail Stop L-668
P.O. Box 808
Livermore, California 94551-9900

Dear Dr. Fisher:

This responds to your May 1, 1995, letter requesting that the Department of Energy (DOE) approve the requests for exemption (835.901(a) and 835.704(a)) from the provisions contained in Title 10, Code of Federal Regulations, Part 835 (10 CFR 835), "Occupational Radiation Protection," submitted by Lawrence Livermore National Laboratory (LLNL). Because these requests for exemption pertain to similar topics, a single response to both exemption requests has been provided.

Based on our review of the materials that were provided to us, we have determined that the LLNL submission does not constitute a request for an exemption from 10 CFR 835.901(a) or 10 CFR 835.704(a). LLNL appears to have misread these provisions and accordingly, the LLNL submission constitutes a request for clarification of the provisions and a determination if their approach to implementation meets the intended purpose of the rule. Enclosed are the detailed results of the Office of Worker Health and Safety (EH-5) technical review of these exemption requests. The following provides the summary conclusions of this review.

Regarding the request for exemption from 10 CFR 835.901(a), LLNL requested an exemption from radiation safety retesting of general employees during the biennial retraining process. EH-5 reviewed the request and noted that the 10 CFR 835.901(a) requirement for verification by examination of radiation safety knowledge does not apply to the biennial retraining required by 10 CFR 835.901(b). Accordingly, there is no need for an exemption.

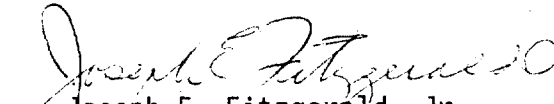
Regarding the request for exemption from 10 CFR 835.704(a), LLNL requested an exemption from having to maintain records that general employees have been provided biennial radiation safety training. LLNL plans to implement the biennial general employee radiation safety training required by 10 CFR 835.901(b) by mailing the material to all appropriate personnel on a biennial basis. LLNL proposed that implementing 10 CFR 835.704(a) would require having a mail-in signature sheet and administratively accounting for the completion of signature sheets for all applicable personnel. EH-5 reviewed the request and noted that 10 CFR 835.704(a) does not specify additional requirements beyond LLNL's proposed plan of maintaining records of general employee radiation safety training materials being provided. Accordingly, there is no need for an exemption.



We suggest that LLNL amend their radiation protection program (RPP), as applicable, to reflect the above information concerning these two exemption requests.

The DOE Office of Defense Programs staff concur with this response.

Sincerely,


Joseph E. Fitzgerald, Jr.
Deputy Assistant Secretary
Worker Health and Safety

Enclosure

cc w/enclosure:
Victor H. Reis, DP-1
E. Ballard, LLNL/L-296
Keith Christopher, EH-3
Docketing Clerk, EH-3
Oakland Operations Office
Radiological Control
Coordinating Committee
Price Anderson Amendments
Act Coordinator

TECHNICAL POSITION

Lawrence Livermore National Laboratory Title 10, Code of Federal Regulations, Part 835 Exemption Requests #4 and #5

Lawrence Livermore National Laboratory (LLNL) requests exemption from certain requirements of Title 10, Code of Federal Regulations, Part 835 (10 CFR 835), "Occupational Radiation Protection." Specifically, LLNL requests permanent exemption from the requirements of section 901(a) of 10 CFR 835 as these requirements apply to verification of general employees' knowledge of radiation safety by examination following biennial retraining and from the requirements of section 704(a) as these requirements apply to maintenance of records of retraining.

Discussion of Exemption

Requests

LLNL currently provides general employee radiological training (GERT) to its employees who may be occupationally exposed to ionizing radiation during access to controlled areas at LLNL facilities. LLNL proposes to conduct biennial retraining by sending appropriate training materials to applicable general employees for self-study. LLNL proposes to omit verification of general employees' knowledge of radiation safety by examination following biennial GERT retraining. LLNL also proposes to demonstrate compliance with the retraining requirements by maintaining records of individuals to whom the retraining materials are sent in lieu of maintaining records of receipt of these materials. LLNL indicates that measures beyond those discussed above would impose an unwarranted and unsustainable administrative burden.

Applicable Requirements

Title 10 CFR 835.901(a): (in part), "The knowledge of radiation safety possessed by general employees shall be verified by examination."

Title 10 CFR 835.704(a): "Training records shall be maintained, as necessary, to demonstrate compliance with §§ 835.901, 835.902, and 835.903."

Results of Analysis

EH-5 reviewed LLNL's requests for exemption and finds that the exemption requests are not necessary in this situation. In its description of activities necessary to implement the requirements for which the exemptions are being requested, LLNL describes programs that would most likely exceed any related regulatory provisions. Accordingly, LLNL has not demonstrated that exemptions from the requirements of 10 CFR 835 are necessary in order to implement programs that achieve compliance.

Although § 835.901(a) requires examinations to verify general employees' knowledge of radiation safety, there is no corresponding regulatory requirement indicating that this verification by examination must be performed at each biennial retraining cycle. The regulatory requirements for biennial GERT retraining are promulgated in § 835.901(b), separate from the initial training and examination requirements.

Regarding maintenance of records of GERT retraining, LLNL indicates that compliance with the provisions of 10 CFR 835.704(a) would require mail-in signature sheets and assignment of an administrator to record, track, and maintain records. The provision for which documentation is being maintained (§ 835.901(b)) requires only that, "Retraining shall be **provided...**" (emphasis added). Since § 835.901(b) does not establish requirements regarding receipt of GERT retraining, § 835.704(a) correspondingly does not establish requirements for records of receipt of GERT retraining. This provision is similar in concept to those promulgated in subpart I of part 835 regarding provision of dose reports to individuals. Compliance with the dose reporting provisions is generally demonstrated through maintenance of copies of the reports that have been provided to individuals, not individual receipt records.

In consideration of the discussion provided above, EH-5 suggests that LLNL develop an appropriate course of action for inclusion in their documented radiation protection program (RPP). Following inclusion in the RPP, the proposed course of action may be reviewed by the Cognizant Secretarial Office for appropriateness as a means of achieving compliance with the subject regulatory requirements.